

McCleary decision still provoking petulance

By Brendan Williams
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OLYMPIAN FILE PHOTO

The appearance of a clash between coequal branches of government has been heightened by the Legislature's decision to cancel the biennial State of the Judiciary address by the Washington Supreme Court's chief justice.

We are told the cancellation is unrelated to the McCleary decision holding legislators in contempt for failing to make the "ample provision" for K-12 education the Washington Constitution requires. Yet it is hard not to read it otherwise.

One Senate leader called the address as "a horrible waste of time" — although that same senator, and 35 colleagues, once found time to petition the Senate to retain a French chef for its dining room.

Is a once-every-two-years tutorial on judicial branch issues a waste of time? Certainly not in relative terms. As a legislator I found even the State of the State address among "pomp and circumstance" occasions that were a substantive waste of time, if not more so than almost every caucus meeting. Yet respect for the governor demanded I at least feign interest in a speech I had already read. And the executive branch gets ample time to interact with legislators. Not so the judicial branch.

Many citizens know Washington ranks in the nation's basement for class size and tax fairness. It does in court funding, too. The judicial address can remind legislators of the consequences. It can also remind them, as former Chief Justice Gerry Alexander once did, of the consequences of their boundless appetite for toughening sentencing laws. Prisons are built more eagerly than schools.

As a national Funding Justice report noted, courts have no "natural constituency — policymakers feel little or no political pressure on court funding." Further, "fewer lawyer-legislators means less knowledge among budget policymakers."

Contrary to a common public perception, only 9 of 147 legislators are attorneys. An institution that enacts laws has little vocational training in the law or the implications of its enactments. It's easy to be, say, "tough on crime" when you can't fathom the burden you are placing on over strained court dockets.

The last year for a significant court funding improvement was my first as a legislator: 2005. The standing of courts has dwindled since then. A Legislature in which one can serve into perpetuity even killed a measure to lift the arbitrary retirement age of 75 for judges (in contrast, in the Senate you're seemingly just at your career's midpoint at 75).

The McCleary decision has provoked petulance. A Senate leader told the court to "pound sand"; a bipartisan group of representatives are pushing a bill to make court races partisan. Their sense of political permanency is offended by being forced to obey the Constitution.

More is at issue than just a speech. With no real effort forthcoming to fully comply with McCleary, and with our kids at stake, it is not just the judiciary being ignored these days. Surely an institution that unfailingly hears from dairy princesses, among other important emissaries (such as Seahawks), can listen to a fellow branch of government.

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